

1
2
3
4 UNITED STATES DISTRICT COURT

5 DISTRICT OF NEVADA

6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 vs.

9 MICHAEL A. PEREZ et al.,

10 Defendants.
11 _____

)
)
)
) 3:15-cr-00013-RCJ-WGC-1
)
)
)
)
)
)
)

ORDER

12 Defendant Michael Perez pled guilty to Count 25 of the Fourth Superseding Indictment
13 for possession with intent to distribute at least 50 grams of methamphetamine. On August 8,
14 2016, the Court sentenced Defendant to 168 months imprisonment. Defendant later asked the
15 Court to reduce his sentence under Amendment 782 to the U.S. Sentencing Guidelines, which
16 retroactively reduced the base offense levels for given quantities of drugs by two. The Court
17 denied the motion as moot, because Amendment 782 had already been incorporated into the
18 version of the Guidelines under which Defendant was sentenced.

19 Defendant has now filed a motion for habeas corpus relief under 28 U.S.C. § 2255. Via
20 his Plea Agreement, however, Defendant waived the right to bring such a motion except as to
21 non-waivable claims of ineffective assistance of trial counsel. All grounds in the motion are
22 therefore waived except the first and fifth grounds.¹

23 _____
24 ¹In the fifth ground, Defendant argues his waiver of habeas corpus rights was not
25 knowingly and intelligently made. The Court rejects this ground. The Plea Agreement and the
Rule 11 colloquy thoroughly ensured that the plea was voluntary, knowing, and intelligent.

1 In the first ground, Defendant argues that trial counsel was ineffective for failing to file a
2 notice of appeal despite Defendant having told him he wanted to appeal. The Court rejects this
3 ground. Defendant waived his right to appeal the sentence calculation, except any sentence
4 above the Guideline range as determined by the Court. The Court did not sentence Defendant
5 above the Guideline range determined by the Court. Counsel was not ineffective for failing to
6 file a notice of an appeal where the right to appeal had been waived.

7 **CONCLUSION**

8 IT IS HEREBY ORDERED that the Motion to Vacate, Set Aside, or Correct Sentence
9 under 28 U.S.C. 2255 (ECF No. 219) is DENIED.

10 IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

11 IT IS SO ORDERED.

12 DATED: This 13th day of April, 2017.

13
14 
15 _____
16 ROBERT C. JONES
17 United States District Judge
18
19
20
21
22
23
24
25